



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

MARCOS PADILLA CHAVEZ,
Plaintiff,

vs.

CHRISTOPHER DAVIS, *Doctor*; HOLLY
HARRELL, *P.A.-C-*,
Defendants.

§
§
§
§
§
§
§

Civil Action No. 8:20-01377-MGL

**ORDER ADOPTING THE AMENDED REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S COMPLAINT FOR FAILURE TO PROSECUTE**

Plaintiff Marcos Padilla Chavez (Chavez), proceeding pro se, filed this *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), claim against two prison medical professionals, Christopher Davis (Davis) and Holly Harrell (Harrell) (collectively, Defendants), alleging violations of his Fifth and Eighth Amendment rights.

This matter is before the Court for review of the Amended Report and Recommendation (Report) of the United States Magistrate Judge recommending Chavez's complaint be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 10, 2021. To date, Chavez has failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Chavez’s complaint is **DISMISSED WITH PREJUDICE** for failure to prosecute under Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Signed this 29th day of December 2021, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.